S.B.CRIMINAL MISC. PETITION NO.368/2007
(Salim Akhtar Kilaniya & Anr. Vs. State of Raj.)

Date of order : : 30.05.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr.Haider Agha, for the petitioners.
Mr.Ashok Upadhyay, PP for the State.

By this joint criminal misc. petition under Section 482 Cr.P.C., the petitioner No.2 - wife has prayed for quashing of criminal proceedings against the petitioner No.1 - husband pending in the court of Judicial Magistrate No.2, Jodhpur in Criminal Case No.16/2006 for offence under Section 498-A and 406 IPC

Heard learned counsel for the the petitioners as well as learned Public Prosecutor.

Learned counsel for the petitioners states that it is a matrimonial dispute between the parties which has resulted into criminal proceedings against the petitioner No.1 under Sections

498-A and 406 IPC pending in the court of Judicial Magistrate No.2, Jodhpur. Now, both the parties have come to the comprise and they are living separately. They have no grievance against each other. He further states that since the matter has been compromised between the parties, therefore, a joint application was moved before the court below for dropping of the criminal proceedings pending against the petitioner No.1 but the learned Judicial Magistrate has refused to attest the compromise for offence under Sections 498-A I.P.C.

Learned counsel states that the learned trial court despite the fact that parties have entered into written compromise, has proceeded ahead in the criminal case pending against the petitioner No1.

In support of his arguments, learned counsel for the petitioners has placed reliance upon the judgment rendered by Hon'ble Supreme Court in case of B.S. Joshi & Ors. Vs. State of Haryana, reported in (2003) 4 SCC 675.

I have considered the arguments made by learned

counsel for the petitioners and gone through the relevant documents produced before me. I have also gone through the judgment cited by the learned counsel for the petitioners in case of B.S. Joshi & Ors. (supra) wherein their Lordships while considering the object of introducing Chapter XX-A containing Section 498-A, have observed as under:

> "There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her to her relatives to satisfy unlawful demands of dowry. The hyper technical view would be counterproductive and would act against interest of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Indian Penal Code".
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> "In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code".

Taking into consideration the statement made by the

learned counsel for the petitioners, I am satisfied that both the parties have genuinely settled their matrimonial dispute and now they have no grievance against each other. In this view of the matter and taking into account the judgment rendered by Hon'ble Supreme Court in case of B.S. Joshi & Ors. (supra), I find it to be a fit case where inherent jurisdiction under Section 482 Cr.P.C. should be exercised.

For the reasons as stated hereinabove, I allow this misc. petition and quash the proceedings against the petitioner No.1 pending in the court of Judicial Magistrate No.2, Jodhpur in Criminal Case No.16/2006 for offence under Section 498-A and 406 IPC.

(KRISHAN KUMAR ACHARYA), J.

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